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IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 622

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL UNION No. 486, AND NEIL DALTON, JR.,
Petitioners,

vs.

ANDREW J. HAENLEIN,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

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OPINION BELOW

The opinion of the Michigan Supreme Court is reported at 361 Mich. 263 (official advance sheets only). A copy of the opinion is printed as an appendix to this Petition.

JURISDICTION

The opinion of the Michigan Supreme Court was filed on September 16, 1960. Petition for rehearing was denied on October 10, 1960. The jurisdiction of this Court is invoked under 28 U. S. C. par. 1257(3).

QUESTIONS PRESENTED

I.

Where in a state court plaintiff, whose business affects interstate commerce within the meaning of the National Labor Relations Act, prayed for injunctive relief to restrain peaceful picketing and for a decree awarding him money damages, does the decree issued by such state court since affirmed by the Supreme Court of the state, violate the due process clause of the Fourteenth Amendment?

II.

Where in a labor dispute between an employer, whose business affects interstate commerce within the meaning of the National Labor Relations Act, Title 29 U. S. C. A., Section 151 *et seq.*, and his employees, did exclusive jurisdiction over the controversy alleged and described in plaintiff's bill reside in the National Labor Relations Board, and did the state court by assuming jurisdiction thereof violate Article I, Section 8, and Article VI of the United States Constitution?

CONSTITUTIONAL PROVISION INVOLVED

The Due Process clause of the Fourteenth Amendment to the Federal Constitution, Article I, Section 8, and Article VI of the Constitution.

STATUTES INVOLVED

The pertinent portions of the "Labor Management Relations Act, 1947", 29 U. S. C. Sections 141 to 187.

STATEMENT OF THE CASE

Respondent in his bill of complaint, filed in the Circuit Court for the County of Saginaw, in chancery, alleged that he was engaged in the business of constructing residential buildings in that locality, both under contracts with owners upon lots owned by them, and upon lots owned by himself for speculative purposes; that following receipt of a letter dated May 9, 1956 from the Michigan State Labor Mediation Board informing respondent that a labor dispute existed between himself and Local 1098, International Hod Carriers Building and Common Laborers Union of America, Saginaw, Michigan, thereafter and on May 22, 1956, picketing of two of his construction projects commenced; and that thereafter the drivers of some trucks ceased making delivery of building materials and supplies to his building projects, making it necessary for respondent or his employees to occasionally haul such materials and supplies themselves. Upon the filing of his bill, respondent was granted the temporary injunction therein prayed for, and in his bill prayed that such injunction be made permanent and that he be awarded money damages in the sum of not to exceed $100,000.00.

Thereafter, and on January 16, 1957, petitioners herein filed their sworn answer to respondent's said bill of complaint in which they alleged that respondent's business affects interstate commerce within the meaning of the National Labor Relations Act, Title 29 U. S. C. A., Section 151 *et seq.* Petitioner averred a lack of information sufficient to form a belief as to several paragraphs contained in said complaint, specifically denied ratifying, authorizing, or participating in any unlawful conspiracy with any other party whatsoever; denied being engaged in any illegal picketing or the committing of any unlawful acts in connection with respondent's business; and denied having authorized, rati-

fied, or participated in the perpetration of any of the acts alleged, by reason of which respondent averred he suffered damages.

The sworn answer to the bill of complaint aforementioned, filed by petitioner herein, further specifically gave notice of two affirmative defenses, averring in the first of such affirmative defenses that since respondent's business and employment relations affect interstate commerce, as defined by Title 29 U. S. C. A., Section 151 *et seq.*, exclusive jurisdiction over the alleged controversy described in respondent's bill resides in the National Labor Relations Board, and that any assumption of jurisdiction over such alleged labor dispute by the courts of the state would be violative of Article I, Section 8, and Article VI of the Constitution of the United States.

For their second affirmative defense, they averred that insofar as the bill alleged a cause of action based upon picketing and other forms of speech, any judicial restraint thereof would do violence to the Fourteenth Amendment to the Federal Constitution.

To the foregoing sworn answer and affirmative defenses respondent made no reply.[1]

On April 19, 1957, respondent's attorneys, and attorneys for some of the petitioners, executed a praecipe placing the above entitled cause on the list of causes ready for trial, certifying that the same was at issue as to all parties and ready for trial. Approximately six months thereafter, and

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[1] Michigan Court Rule 27, Section 4, requires that a reply to an answer shall be filed within fifteen days after receipt thereof. Section 6 of the same rule provides that a motion attacking a pleading, or any part thereof, must be filed within fifteen days after receipt of such pleading, and that all objections to pleadings not stated in such motion shall be deemed waived.

on September 9, 1957, respondent made a motion to strike the answer of the petitioner herein, and thereafter, on October 15, 1957, the Honorable Arthur M. Bach, Circuit Judge, presiding in the Circuit Court for the County of Saginaw, in chancery, entered an order directing petitioner to file an amended answer in accordance with the content and prayer of respondent's motion within fifteen days from the date of such order, and providing that upon failure so to do the answer of said petitioner theretofore filed be stricken from the file in said cause.

On November 12, 1957, an affidavit and order of default was entered as to said petitioners herein, upon the ground that they had not filed an amended answer as theretofore ordered. One year later, or on October 21, 1958, the cause came on for trial in the Circuit Court for the County of Saginaw, in chancery, before the Honorable Arthur M. Bach, Circuit Judge, presiding, notices of the trial date having theretofore been given to all parties, including petitioner herein, just as if the default had never been entered.

Following a very brief trial, at which plaintiff (respondent herein) offered no proof to establish that his business did not affect interstate commerce, offered no proof that the picketing of his business projects was accompanied by violence, and offered no competent proof as to damages, if any, the Court entered a decree theretofore prepared, which, after reciting that the cause came on for trial with notice to all parties (just as if no default had been taken), decreed that all of the defendants named in said bill of complaint, including the petitioners herein, be permanently enjoined from engaging in illegal labor practices; from picketing respondent's private residence excepting to the extent that the same was authorized under the constitutional provisions; from obstructing or interfering with free